

TEXAS
Farm & Ranch Lands
CONSERVATION PROGRAM

2014 Application Guidance

Texas General Land Office

For further information, please contact:

Texas Farm and Ranch Lands Conservation Program

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The Texas Farm and Ranch Lands Conservation Program is administered by the Texas General Land Office, overseen by the Texas Land Commissioner with the assistance of the Texas Farm and Ranch Lands Conservation Council. Projects selected by the Council will be funded pursuant to: (1) Texas Natural Resources Code Chapter 183 and (2) the federal Coastal Impact Assistance Program (CIAP) established under Section 384 of the Energy Policy Act of 2005 (Public Law 109-58), amending the Outer Continental Shelf Lands Act, 43 U.S.C. Section 1356a.

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INTRODUCTION

In 2005, the Texas Legislature enacted Senate Bill 1273, establishing the Texas Farm and Ranch Lands Conservation Program (Program). The purpose of the Program is to enable and facilitate the purchase and donation of Agricultural Conservation Easements. The Program is administered by the Texas General Land Office (GLO) and overseen by the Texas Land Commissioner (Land Commissioner) with the assistance of the Texas Farm and Ranch Lands Conservation Council (Council). The Council is charged with advising and assisting the Land Commissioner with administering the Program and selecting applicants to receive grants under the Program.

This document provides an overview of the Program and instructions for potential applicants working through the grant administration process. A list of frequently asked questions can be found at the end of this guidance. Additional resources, including a list of current Council members, a copy of the application, and the Council's scoring criteria, are provided in the Appendix section.

AGRICULTURAL CONSERVATION EASEMENTS

A conservation easement is a nonpossessory interest in real property that imposes limitations or affirmative obligations designed to:

- retain or protect natural, scenic, or open-space values of real property or assure its availability for agricultural, forest, recreational, or open-space use;
- protect natural resources;
- maintain or enhance air or water quality; or
- preserve the historical, architectural, archeological, or cultural aspects of real property.

In Texas, willing landowners may grant a conservation easement to qualified entities such as governmental entities and land trusts. A land trust is a tax-exempt, non-profit 501(c)(3) corporation that acts as a "grantee" in conservation easement transactions. The land trust is charged with monitoring the property, enforcing the easement during its term, and preparing annual reports in compliance with state or federal law. Unless the easement specifically states otherwise, third parties have no right to enforce a conservation easement.

Although every conservation easement is different, most generally limit the number and types of improvements that may be constructed on the property and provide requirements for management of the property. The easement essentially acts as a set of deed restrictions unique to the property, running with the land and binding future owners of the property during the term of the easement. A conservation easement can be either perpetual (forever) or for a term of years. However, due to the nature of the source funds, conservation easements purchased through the Program must be perpetual.

An Agricultural Conservation Easement is a conservation easement designed to encourage agricultural activities while protecting unique property from fragmentation and

development pressures. For the purposes of the Program, an Agricultural Conservation Easement must be designed to accomplish one or more of the following purposes set forth in Texas Natural Resources Code § 183.052:

- conserve water quality or quantity;
- conserve native wildlife species through protection of their habitat;
- conserve rare or sensitive plant species; or
- conserve large tracts of qualified open-space land that are threatened with fragmentation or development.

The land to be encumbered by an Agricultural Conservation Easement and the agreement memorializing the Agricultural Conservation Easement must satisfy certain legal, land acquisition, and grant criteria, as discussed further in this document. The Council will consider the value of the agricultural land, in addition to other factors outlined in this document, to determine whether to fund an Agricultural Conservation Easement.

TEXAS FARM AND RANCH LANDS CONSERVATION COUNCIL

Pursuant to Texas Natural Resources Code § 183.061, the Council is comprised of the Land Commissioner, the Texas Commissioner of Agriculture (or a designee), the presiding officer of the Texas Parks and Wildlife Department (or a designee), the USDA Natural Resources Conservation Service state conservationist (or a designee, a nonvoting member), and six members appointed by the governor. The appointed members must include:

- one member who operates a family farm or ranch in this state;
- one member who is the designated representative of an agricultural banking or lending organization and has significant experience lending for farms and ranches or lands encumbered by conservation easements;
- two members who are the designated representatives of a statewide agricultural organization in existence in this state for not less than 10 years;
- one member who is a designated representative of a statewide nonprofit organization that represents land trusts operating in this state; and
- one member from a state institution of higher education who has significant experience with natural resources issues.

A complete list of current members is provided in **Appendix A** of this guidance.

The Land Commissioner serves as the presiding officer of the Council. The Council meets on an annual basis or as needed to award grants and administer the Program. The Council is subject to the Texas Open Meetings Act, and all Council meetings are open to the public.

TEXAS FARM AND RANCH LANDS CONSERVATION PROGRAM FUNDING

Funding under the Program is awarded pursuant to Texas Natural Resources Code Chapter 183 and the federal Coastal Impact Assistance Program (CIAP). Accordingly, applicants must ensure that their projects comply with the Program requirements in Texas

Natural Resources Chapter 183, as well as the federal statutes, regulations, land acquisition standards, and grant requirements applicable to CIAP. Currently, CIAP is the main source of funding for the Program. CIAP is a federal grant program authorized by Section 384 of the Energy Policy Act of 2005 (Public Law 109-58), amending the Outer Continental Shelf Lands Act, 43 U.S.C. Section 1356a. CIAP is managed by the U.S. Fish and Wildlife Service, a bureau of the U.S. Department of the Interior, and administered by the State of Texas on behalf of the Federal Government. More information about CIAP is available online at: <http://www.glo.texas.gov/what-we-do/caring-for-the-coast/grants-funding/ciap/index.html>.

PROGRAM SPECIFICS

Qualified Easement Holder

Pursuant to Texas Natural Resources Code § 183.052(8), entities qualified to hold Agricultural Conservation Easements include state agencies, municipalities, and 501(c)(3) organizations that are organized for the purpose of preserving agriculture, open space, or natural resources.

Qualified Land

CIAP is currently the primary source of funding under the Program; therefore, proposed conservation easements must be located in one of the 18 Texas coastal counties to be eligible for funding. In addition, only property that meets the requirements of “qualified open-space land,” as that term is defined by Chapter 23, Subchapter D, Tax Code, qualifies for the Program. Generally, if the property qualifies for an agricultural or wildlife tax exemption, it will qualify for the Program. To qualify for an agricultural tax exemption under Tax Code § 23.51(1), the land must be (1) currently devoted principally to agricultural use to the degree of intensity generally accepted in the area and that has been devoted principally to agricultural use or to production of timber or forest products for five of the preceding seven years; or (2) used principally as an ecological laboratory by a public or private college or university. For more information, please contact the Texas Comptroller of Public Accounts.

Agricultural Conservation Easement Agreement

Easement Terms

The Council may establish minimum requirements for the conservation easement agreement to be executed by the landowner(s) and the easement holder. These requirements, if any, are included in the Council’s scoring criteria, found in **Appendix C** of this guidance. All agreements must be reviewed and approved by the Legal Services Division of the GLO before funds may be released. In addition to any other terms that may be required, all easement agreements should indicate:

- whether the landowner will receive a lump sum or annual payments;
- whether the term of the easement is perpetual;
- whether the landowner retains limited development rights; and

- the purchase price of the easement.

If the landowner retains any development rights, the easement agreement should clearly outline the location and type of development that may occur on the property. The easement agreement should also define the agricultural activities to be conducted on the property and address issues related to mineral and groundwater rights, alternative energy, monitoring and access, notice, and commercial activities.

The easement agreement should also address issues related to enforcement. As mentioned previously, an Agricultural Conservation Easement may not be assigned to or enforced by a third party without the express written consent of the landowner.

Easement Termination and Repurchase

Under limited circumstances, a landowner may request that the Council terminate the easement pursuant to Texas Natural Resources Code § 183.055. The basis for the request must be that the landowner is unable to meet the conservation goals of:

- conserving water quality or quantity;
- conserving native wildlife species through protection of their habitat;
- conserving rare or sensitive plant species; or
- conserving large tracts of qualified open-space land that are threatened with fragmentation or development.

The termination request must include a verifiable statement of impossibility. Upon request, the Council will notify the Qualified Easement Holder, conduct an inquiry, and, within 180 days of the request, notify the parties of its decision. Either party may appeal the decision in district court within 45 days from receiving notice of the decision.

If the landowner's request is granted, the Land Commissioner will order an appraisal of the property at the landowner's expense in accordance with Texas Natural Resources Code § 183.056. The landowner will then be required to pay to the Qualified Easement Holder the difference between the fair market value of the property and the agricultural value. The Qualified Easement Holder, in turn, must reimburse any amounts received, up to the value of the original grant. The landowner will also be responsible for payment of any taxes incurred as a result of the easement's removal.

In addition to satisfying the requirements of Texas Natural Resources Code §§ 183.055-183.056 set forth above, easement termination and repurchase is subject to the federal grant restrictions, regulations, and approval process applicable to CIAP funds.

Condemnation of Easement Property

Under Texas Natural Resources Code § 183.057, an entity with the power of eminent domain may not approve any program or project that requires the condemnation of property encumbered by an Agricultural Conservation Easement unless the entity formally determines, in

a public hearing, that (1) there is no feasible and prudent alternative to the use or taking of the land, and (2) the program or project includes all reasonable planning to minimize harm to the land.

If an entity makes the required determination and acquires a fee simple interest in property encumbered by an Agricultural Conservation Easement, the easement terminates and the entity must pay the landowner and the Qualified Easement Holder in accordance with Texas Natural Resources Code § 183.057(d). If the entity acquires, by eminent domain, an interest other than a fee simple interest, the easement does not terminate and the entity must pay the landowner and the Qualified Easement Holder in accordance with Texas Natural Resources Code § 183.057(e). In both instances, the Qualified Easement Holder must reimburse any amounts received, up to the value of the original grant, and must further comply with applicable federal regulations and CIAP grant requirements.

APPLICATION AND REQUIRED DOCUMENTS

The land trust and the landowner are responsible for the costs associated with obtaining and preparing all required documentation (although some of these upfront costs may be reimbursed in the event of a grant award). The following documents are required at the time of application or before finalization of the grant award, as indicated below:

Application

To be considered for funding, a Qualified Easement Holder (Applicant) must complete the Program Application Form (available in **Appendix B** of this guidance) and submit it to the GLO. A completed application must (1) set out the land trust and the landowner's conservation goals consistent with the Program and CIAP; and (2) include all the information set forth in **Appendix B**, including the following required documents:

Appraisal

In addition to the application, the Applicant must provide a site-specific estimate-of-value appraisal by a licensed appraiser qualified to determine the market value of the easement. Although this estimate will suffice for determining whether the application is administratively complete, Applicants are encouraged to include a formal easement appraisal conducted by an independent, licensed appraiser with the application. Approval for grant funding may be delayed until the formal appraisal has been completed, and a complete appraisal must be submitted to the GLO and approved by the Council before funds may be released. Prior to the final release of grant funds and the execution of the Agricultural Conservation Easement, Applicants must submit an appraisal that complies with The Uniform Appraisal Standards for Federal Land Acquisitions ("Yellow Book"). The Yellow Book Appraisal must be reviewed and approved by the GLO and U.S. Fish and Wildlife Service prior to the purchase of the conservation easement.

Appraisals must utilize the "before and after" method of valuation, calculating the difference between the fair market value and the agricultural value of the property. This process results in effectively two appraisals: one of the current market value without restriction, and the

second of the diminished value as though encumbered by an Agricultural Conservation Easement.

Landowners are encouraged to discuss the restrictions and permitted uses of the proposed easement with the appraiser early in the appraisal process. Major issues such as reserved home sites and other construction activities must be confirmed prior to the appraisal, as they will likely affect easement valuation.

Survey, Maps, and Photographs

The Applicant must also provide an acceptable property description or a current survey depicting the property to be encumbered. The survey must be performed by a registered professional land surveyor and should indicate current buildings, including barns, livestock pens and homes. Preferably, the survey will also show any proposed future building sites to be authorized by the Agricultural Conservation Easement. A survey is required with the application if the property to be encumbered is dividing a larger parcel of land. Surveys will be required for all Applicants before a project is approved. Prior to the final release of grant funds and the execution of the Agricultural Conservation Easement, Applicants must submit a Category 1A Land Title Survey, as defined in the *Manual of Practice for Land Surveying in Texas*. The GLO recommends obtaining the Category 1A Survey prior to conducting the Yellow Book Appraisal.

The Applicant must also provide maps of the property as part of the application. In addition to an area map that shows the location of the property in relation to nearby properties and roads, the Applicant should provide a detailed map of the property that shows current structures and any proposed future building sites to be authorized by the Agricultural Conservation Easement, especially if the survey map does not reflect these sites.

The Applicant should also provide photographs depicting the natural areas, agricultural areas, roads, and current structures on the property. Representative photographs of each scenic, archeological, natural, or geological feature should be provided. Photographs of representative flora and fauna on the property are also encouraged.

Title Report

The Applicant must provide, as part of the application, a current title report or commitment that lists all parties holding an interest in the property and shows whether there are any liens, mortgages, or encumbrances on the property. Applicants are encouraged to discuss any and all liens, mortgages, or other encumbrances on the property early in the application process. All liens, mortgages, or encumbrances must be released or subordinated before the Agricultural Conservation Easement is executed, and a policy of title insurance must be obtained.

Conservation Plans

Resource Management Plan

The parties should provide a resource management plan that identifies the conservation values of the property and sets standards and objectives for protecting those values. The plan should include specifications for monitoring the property (including a monitoring budget) and ensuring compliance with the easement agreement, including specifications for annual reports from the Applicant to the GLO, certifying that the conditions of the easement are being upheld. The Council requires all easement holders to file annual monitoring reports with the Program Coordinator as the awarding contract allows.

Baseline Documentation Report

Prior to the final release of grant funds and the execution of the Agricultural Conservation Easement, Applicants must prepare a comprehensive baseline documentation report. The baseline document must describe and depict the current condition of the property, and contain the parties' acknowledgment that the document accurately represents the condition of the property at the time the easement is executed. The baseline document, coupled with the resource management plan and the Agricultural Conservation Easement agreement, will act as a reference point for future monitoring visits to the property.

The components of the baseline document should include: (1) extensive photographs of the developed and natural areas of the property, including all buildings and structures, and a photo point map; (2) a map to scale showing all existing man-made improvements (e.g., buildings, roads, fences, power lines, ponds), agricultural structures and uses, land use history, distinct natural features, historical features, vegetation and identification of flora and fauna (including threatened or endangered species, significant or critical habitat, breeding areas and migration routes), and aquatic areas (including waterways, wetlands, riparian areas, irrigated areas); (3) information on any easements or leases on the property; and (4) descriptions and depictions of the property's agricultural features, including products, methods, grazing intensity, water rights, agricultural plans such as NRCS soil plans, and other information relevant to the agricultural history, plans, and uses of the property.

Memorandum of Understanding

Finally, Applicants must include a memorandum of understanding signed by the landowner and the land trust indicating an intent to sell an Agricultural Conservation Easement. This memorandum should contain or incorporate the terms of the Agricultural Conservation Easement agreement for the sale of the easement. Incorporation of a draft agreement as an exhibit to the memorandum will satisfy this requirement and is preferred. A sample memorandum of understanding can be found in **Appendix E**. More information regarding the Agricultural Conservation Easement agreement is provided above.

Additional Documents

If the Applicant is a non-profit organization, it must provide with the application a copy of the organization's non-profit Internal Revenue Service 501(c)(3) status, a copy of the organization's articles of incorporation and bylaws, and a conflict of interest certification, signed by the board president that certifies that no member of the board or any employee of the organization will benefit from receipt of the grant. A sample conflict of interest certification can be found in **Appendix F**.

GRANT SCORING CRITERIA

Only projects that propose to (1) conserve water or protect water quality, (2) conserve native wildlife species through protection of their habitat, (3) conserve rare or sensitive plant species, or (4) conserve large tracts of qualified open-space land threatened by fragmentation or development may receive funding from the Program. The Council will not consider any applications that are administratively incomplete. At the Program Coordinator's discretion, administratively incomplete applications may be returned with a request for additional information.

In accordance with Texas Natural Resources Code § 183.060, the Council has adopted scoring criteria that will be used in evaluating applications. The scoring criteria can be found in **Appendix C** of this guidance. The Council will consider the following project elements when reviewing applications:

- maintenance of landscape and watershed integrity to conserve water and natural resources;
- protection of highly productive agricultural lands;
- protection of habitats for native plant and animal species, including habitats for endangered, threatened, rare, or sensitive species;
- susceptibility of the subject property to subdivision, fragmentation, or other development;
- potential for leveraging state money allocated to the program with additional public or private money;
- proximity of the subject property to other protected lands;
- percentage of match provided;
- the term of the proposed easement; and
- a resource management plan agreed to by both parties and approved by the Council.

The Council retains the option to focus on factors of special interest in selecting projects. The Council will notify the public of any additional criteria related to other grant programs in the published Request for Applications each time grants are to be awarded.

FREQUENTLY ASKED QUESTIONS

- *Does the statutory requirements governing the Program (Texas Natural Resources Code, Subchapter B, §§ 183.051-183.063) apply to all conservation easements?*
 - No. These specific statutory requirements apply only to Agricultural Conservation Easements procured through the Program. Although landowners and easement holders must comply with the general conservation easement statutes (Texas Natural Resources Code, Subchapter A, §§ 183.001-183.005), they are not obligated to follow the requirements of the Program if the easement is executed independently of the Program.
- *What tax benefits are available for landowners who grant a conservation easement on their property?*
 - The available tax benefits will depend on the specific circumstances surrounding the grant of the conservation easement. Generally speaking, tax benefits only arise when all or a portion of a conservation easement is donated. However, the laws surrounding the donation of conservation easements may change at any time. **Always talk to an attorney and certified public accountant before entering into a conservation easement agreement.**
- *Is there a minimum match requirement under the Program?*
 - No. Pursuant to the 82nd Texas Legislature's enactment of Senate Bill 1044, which amended Texas Natural Resources Code § 183.059 and became effective on September 1, 2011, the Program legislation no longer requires Applicants to match 50 percent of the grant amount being sought. However, applicants are encouraged to include donations of cash, in-kind services, or additional land or easements as part of their applications, as such donations maximize available funding and agricultural land conserved under the Program and are considered by the Council in the scoring process.
- *How can I tell if my property meets the requirements of the Tax Code and is therefore eligible for a grant?*
 - Contact the Texas Comptroller of Public Accounts. The Comptroller's "Guidelines for the Appraisal of Agricultural Lands" may be of assistance and can be found at <http://www.window.state.tx.us/taxinfo/proptax/agland/index.html>. In certain instances, your local Private Lands Biologist from the Texas Parks and Wildlife Department may be able to help.
- *Does the public have the right to enforce a conservation easement?*
 - No. Third parties have no rights of enforcement unless the easement agreement, signed by the parties and recorded in the county deed records, specifically provides such a right.
- *Where can I find specialized consultants (surveyors, appraisers, attorneys, etc.) and a land trust that fits my needs?*
 - Please see **Appendix D** or contact the Program Coordinator for more information.

APPENDIX

APPENDIX A – LIST OF 2014 COUNCIL MEMBERS

Appointed Members

Thomas R. Kelsey–Houston
Of Counsel, Berie Lamberth LLP

James (Jim) Cathey, Ph.D –College Station
Assoc. Dept. Head, Wildlife & Fisheries Science, Texas A&M AgriLife Extension Service

Pam McAfee–Dripping Springs
Rancher, representing operators of family farms and ranches

George David Scott–Richmond
Representing a statewide agricultural organization

Dan Dierschke–Austin
Farmer, rancher, and active member of numerous agricultural organizations

John Zacek–Victoria
Executive Vice President, First Victoria National Bank

Ex-Officio Members

Jerry Patterson
Commissioner, Texas General Land Office

Todd Staples
Commissioner, Texas Department of Agriculture

Carter Smith
Executive Director, Texas Parks & Wildlife Department

Salvador Salinas (nonvoting)
State Conservationist, U.S. Department of Agriculture, NRCS

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APPENDIX B – APPLICATION

Please submit this checklist with the application.

- _____ 1. Application
 - _____ Project Description
 - _____ Project Budget (commitment letters from third-party donors)
 - _____ Property Photographs (include aerial photographs if available)
- _____ 2. Appraisal
- _____ 3. Maps
 - _____ Property Survey
 - _____ Area Location Map
 - _____ Site-Specific Location Map
- _____ 4. Title Report
- _____ 5. Conservation Plans
 - _____ Resource Management Plan
- _____ 6. Memorandum of Understanding
- _____ 7. Commitment Letters from Third Party Donors

If the Applicant is a non-profit organization, please include:

- _____ 8. Copy of Nonprofit Internal Revenue Service 501(C)(3) Status
- _____ 9. Articles of Incorporation and Bylaws
- _____ 10. Conflict of Interest Certification

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Please refer to the associated request for applications and ensure all necessary details are included in the application. Attach as many pages as necessary.

Property Information:

Farm or ranch name: _____

Names of all legal owners and length of ownership: _____

Physical address: _____

City: _____ State: _____ Zip: _____

County: _____ Total acreage: _____ Watershed: _____

Current use: _____

Water sources: _____

Property type with acreage (ex.: # of acres utilized for agriculture): _____

Land Description (ex.: grassland, pasture, rangeland, wetland): _____

Endangered or threatened species on the property: _____

Is there any historical significance to the property? ____ If yes, please explain. _____

Names of all mineral rights owners (if different from surface owners): _____

Is there current mineral exploration on the property? ____ If yes, please explain. _____

Names of all water rights owners (if different from surface owners): _____

Is there current water marketing on the property? ____ If yes, please explain. _____

Number of current residential structures: _____ Approximate size of each residence: _____

Number of residential structures reserved in easement (if any): _____ Size restriction: _____

Number, type, and square footage of other structures: _____

Number, type, and size restriction of any additional structures reserved in easement: _____

Number of existing legal parcels: _____ Would easement prohibit further subdivision? _____

Would easement prohibit separate sale of existing or future legal parcels? _____

Term of proposed easement: _____

Grant Information:

TFRLCP Funds Requested: \$ _____

Funds contributed from other sources, including applicant (if any): \$ _____

Value of land donated for easement purposes (if any): \$ _____

Other reimbursable expenses: \$ _____

Total easement cost: \$ _____

Applicant Information:

Name of Applicant: _____

Name of Authorized Official for Applicant: _____

Physical mailing address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax number: _____ E-mail: _____

Name of Landowner: _____

Physical mailing address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Fax number: _____ E-mail: _____

Signature of Authorized Official (Applicant): _____

Date: _____

Signature of Landowner: _____

Date: _____

Please provide information describing the following (attach additional pages if necessary):

1. The agricultural productivity of the property, including an explanation of current grazing or crop operations;
2. Current development pressures on the property, including zoning information, if applicable;
3. The biological and habitat values provided by the property, including descriptions of wildlife habitat, wetlands/riparian habitat, native vegetation, and endangered or threatened species;

4. The surface and ground water sources on the property, and the current condition of those sources;
5. The scenic, archeological, or geological values of the property;
6. The property's proximity to other protected lands;
7. Any mortgages or liens on the property or any interests held by other parties in the property, including additional information concerning the status of mineral and water interests and operations on the property;
8. Sources of any matching funds, including whether the Applicant proposes to donate a portion of the appraised value of the easement;
9. The potential for additional public or private funding;
10. Background information on the Applicant, including a description of the organization and its mission, narratives of representative easements, and board member and staff bios; and
11. Any additional information you believe would be helpful for the Texas Farm and Ranch Lands Conservation Program to consider.

Budget Itemization

Note: Applications must adhere to the Texas Uniform Grant Management Standards
<http://www.governor.state.tx.us/files/state-grants/UGMS062004.doc>

	Funding Request	Match* (including donation of appraised value of easement, if applicable)	Total
<u>Acquisition Costs</u>			
Easement Acquisition	_____	_____	_____
Subtotal	_____	_____	_____
<u>Associated Costs</u> (e.g., appraisal, title, survey, escrow, closing costs, legal, etc.)			
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
<u>Subtotal</u>	_____	_____	_____
<hr style="border: 1px solid black;"/>			
<u>Totals</u>	_____	_____	_____

Matching Funds = _____ (% of grant request)*

**Matching funds or in-kind donations of land, services, or additional easements are not required under the Program but may be considered by the Council in scoring applications.*

DATES & REQUIREMENTS: Applications must be received on or before close of business by the deadline established in the RFA. Applications may be sent by mail (regular, express, or certified) to: Texas General Land Office, P.O. Box 12873, Austin, TX 78711-2873, Attn: Ned Polk. Applications received after the deadline will not be considered. Applications may be hand delivered to the GLO headquarters in Austin, Texas, Room 111D, 1700 North Congress Ave., Austin Texas. Facsimiles, electronic mail transmissions and applications postmarked on or after the due date will not be accepted.

Please remember to include items from the checklist with your application.

For additional information contact:

Ned Polk, Program Coordinator
P.O. Box 12873
Austin, TX 78711-2873
Phone: 512-463-5030
Fax: 512-463-1961
E-mail: ned.polk@glo.texas.gov

APPENDIX C – SCORING CRITERIA

Applications will be assigned a score in accordance with the following criteria (outlined in statute).

Project Name _____

1. Protection of highly productive agricultural lands. *Is this land at risk for loss of its agricultural value? Is this cropland or pasture? What types of crops are produced? Is this productive land in a high rainfall region? What is value of the agricultural production of the land? If pastureland, what is the grazing ratio of acres per animal)?*

(possible 16) _____

2. Terms of proposed easement -- perpetual or for a term of 30 years. *Who will hold the easement? Does the easement duration support long-term protection of the agricultural and conservation values of the property?*

(possible 15) _____

3. Susceptibility of subject property to subdivision, fragmentation, or other development. *Consider growth or fragmentation potential of the region. Is there rapid growth? Are there neighboring developments? Does the property size make it especially susceptible to fragmentation?*

(possible 14) _____

4. Proximity of subject property to other protected lands. *Are neighboring properties protected from development? Are protected properties in the same county or neighboring counties?*

(possible 13) _____

5. Maintenance of land and watershed integrity to conserve water and natural resources. *Is the property on a major river, important tributary or in a critical recharge zone of a major aquifer? Are there other important natural resources on this property?*

(possible 12) _____

6. A resource management (conservation) plan agreed to by both parties and approved by the Council. *Does the resource management plan identify the conservation values of the property and set standards and objectives for monitoring and protecting those values?*

(possible 11) _____

7. Protection of habitat for native plant and animal species, including habitat for endangered, threatened, rare or sensitive species. *How well has the land been maintained? What is the status of native wildlife populations? Do endangered, threatened, or unique plant or animal species exist on the property?*

(possible 10) _____

8. Potential for leveraging state funds allocated to the program with additional public or private funds. *Are matching funds or a portion of the appraisal land value available to share as a match? Who will provide the funds? What percentage of the total value do they represent? ?*

(possible 9) _____

Total score (out of possible 100) _____

APPENDIX D – ADDITIONAL RESOURCES

Texas Farm and Ranch Lands Conservation Program

<http://www.glo.texas.gov/texas-farm-and-ranch/>

Texas Farm and Ranch Lands Conservation Council

<http://www.glo.texas.gov/GLO/boards-and-commissions/farm-ranch-land-conservation/index.html>

Texas General Land Office

<http://www.glo.texas.gov/index.html>

Coastal Impact Assistance Program

<http://www.glo.texas.gov/what-we-do/caring-for-the-coast/grants-funding/ciap/>

Natural Resources Code Chapter 183, Agricultural conservation easements

<http://www.statutes.legis.state.tx.us/Docs/NR/htm/NR.183.htm#00>

Texas Land Trust Council: Conservation Easements – A Guide For Texas Landowners

<http://www.texaslandtrustcouncil.org/index.php/what-we-do/conservation-easements-guidebook>

Texas Land Trust Council

<http://www.texaslandtrustcouncil.org/>

(Federal) Farmland Protection Program

<http://www.nrcs.usda.gov/programs/frpp/>

American Farmland Trust

<http://www.farmland.org/>

Taking Care of Texas (Report of the Governor’s Task Force on Conservation)

http://www.tpwd.state.tx.us/publications/nonpwdpubs/media/taking_care_of_texas_report.pdf

National Sustainable Agriculture Information Service

<http://attra.ncat.org/attra-pub/coneasements.html>

Land Trust Alliance

<http://www.landtrustalliance.org/>

Partners for Fish and Wildlife Program

<http://partners.fws.gov/>

APPENDIX E – MEMORANDUM OF UNDERSTANDING

WHEREAS, the Texas Farm and Ranch Lands Conservation Program exists to award grants to Qualified Easement Holders for the purchase of Agricultural Conservation Easements pursuant to Texas Natural Resources Code Chapter 183, Subchapter B; and

WHEREAS, _____ (the “Organization”) is a Qualified Easement Holder pursuant to Texas Natural Resources Code § 183.052(8); and

WHEREAS, _____ (the “Owners”) own(s) qualified land (the “Land”) pursuant to Texas Natural Resources Code § 183.052(9); and

WHEREAS, the Owners desire to sell an Agricultural Conservation Easement, as that term is defined in Texas Natural Resources Code Chapter 183, Subchapter B, to the Organization; and

WHEREAS, the Organization desires to acquire an Agricultural Conservation Easement on the Land from the Owners; and

WHEREAS, the Owners and the Organization (jointly, the “Parties”) submitted an application for a grant from the Texas Farm and Ranch Lands Conservation Program on _____ to facilitate the purchase of an Agricultural Conservation Easement;

NOW THEREFORE, the Parties enter into this Memorandum of Understanding and certify as follows:

I. Parties. The contact information for the Parties is as follows:

Organization:

Name: _____

Organization: _____

Address: _____

Phone: _____

E-Mail: _____

Owners:

Name: _____

Organization: _____

Address: _____

Phone: _____

E-Mail: _____

II. Agricultural Conservation Easement. The Owners intend to sell an Agricultural Conservation Easement to the Organization under the terms set forth in the draft conservation easement agreement attached and incorporated hereto as Exhibit A.

III. Grant Award. The Parties intend to utilize any grant awarded by the Texas Farm and Ranch Lands Conservation Council in accordance with the budget included as part of the application for funding. If the Texas Farm and Ranch Lands Conservation Council awards fewer funds than requested in the application, or if circumstances change such that the budget must be amended or the Owners no longer intend to sell an Agricultural Conservation Easement to the Organization, the Parties agree to either jointly file an amendment to the application or withdrawal the application, as applicable.

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Understanding this ____ day of _____, ____ in order to comply with the requirements of the Texas Farm and Ranch Conservation Program.

Organization

(Note: This memorandum must be signed by an authorized member of the Organization.)

By: _____

Printed Name: _____

Date: _____

Title: _____

Organization: _____

Property Owners

(Note: All record owners of the property must sign this memorandum.)

By: _____

Printed Name: _____

Date: _____

By: _____

Printed Name: _____

Date: _____

APPENDIX F – FORM CONFLICT OF INTEREST CERTIFICATION

(To be completed by the president of the board of directors of the applicant.)

I, _____, president of the Board of Directors of _____ (the “Organization”), am aware of the proposed project for which the Organization has requested funding from the Texas Farm and Ranch Lands Conservation Program and am familiar with the parties involved, including the owners of the property to be placed under a conservation easement. To the best of my knowledge and belief, no member of the Board of Directors or any employee of the Organization will benefit from receipt of the requested grant from the Texas Farm and Ranch Lands Conservation Program. For the purpose of this certification, the term benefit includes any financial gain from the approval of the grant by the Texas Farm and Ranch Lands Conservation Council, whether direct or otherwise. I agree to immediately update this certification if changed circumstances render it inaccurate.

Signature: _____

Printed Name: _____

Date: _____

Title: _____

Organization: _____